

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26/03/2004

CORAM

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

W.P.No.21449 of 2000

and W.P.Nos., 21450 of 2000, 583, 843 to 845, 1191, 3344, 1032, 1033
, 958 and 959 of 2001, and 41887 of 2002,

W.M.P.Nos.31206, 31207 of 2000, 771, 1135, 1137, 1139, 1647 of 2001,
and

W.V.M.P.Nos.1379, 1380, 1378 and 29137 of 2001

W.P.No.21449 of 2000:

N.V.V.Krishna .. Petitioner

-Vs-

1. The Union of India
rep. by its Secretary to Government
Ministry of Petroleum and
Natural Gas, Shastri Bhavan
New Delhi.

2. The Competent Authority
Petronet CTM Ltd.,
Chennai-Trichy-Madurai
Product Pipeline Project
4/2, Crawford Colony
Tiruchirapalli-620 012.

3. The Tahsildar
Uthukottai Taluk
Uthukottai
Tiruvalluvar District. .. Respondents

PRAYER in W.P.No.21449 of 2000: Petition under Article 226 of the
Constitution of India for issue of a writ of Certiorarified Mandamus as stated
therein.

For Petitioners : Mr.R.Kannan
in WP.Nos.21449
and 21450/2000

For Petitioners : Mr.M.S.Subramanian
in WP.Nos.583, 843
to 845, 1191,3344,
1032, 1033, 958 &
959 of 2001, and
41887 of 2002

For Respondents : Mr.V.T.Gopalan
1 and 2 in WP.No. Addl. Solicitor General
21449 & 21450/2000 Assisted by
Respondents 1, 2 Mr.K.Rajendran, SCGSC
& 4 in WP.41887/2002
Respondents 1 & 2 in
WP.Nos.583, 843

to 845, 1191,3344,
1032, 1033, 958 &
959 of 2001

For 3rd respondent : Mr.M.S.Palanisamy
in WP.Nos.21449 Addl. Govt. Pleader
and 21450/2000

For 3rd respondent : No appearance
in 583, 843 to 845,
1191, 3344, 1032,
1033, 958 & 959/2001,
and 41887/2002.

:ORDER

While the constitutional validity of the Petroleum and Minerals
Pipelines (Acquisition of right of User in land) Act, 1962 (for brevity "the
Act") is under challenge in W.P.No.41887 of 2002, the proceedings initiated
for acquisition of right of user in the land under the said Act are assailed
in the other writ petitions, viz., W.P.Nos.21449, 21450 of 2000, 583, 843 to
845, 1191, 3344, 1032, 1033, 958 and 959 of 2001.

2.1. Challenge is made to the Act on the following grounds:

(I) the provisions of the Act violate the second proviso to Article 3 1-A read
with Article 300A of the Constitution of India;

(II) while the Act empowers the competent authority to acquire the right of
user in the land, under which pipelines may be laid and issue a notification
for such acquisition declaring the intention to acquire the right of user in
the land by exercising the power conferred under Section 3(1) of the Act,
there is no specific provision empowering the authorities to acquire the trees
attached to the lands and in the absence of such power, the respondents have
no authority either to acquire or remove the trees; nor to prevent further
plantation of the trees, as it would otherwise be contrary to the object of

the legislation, viz., that the Act is intended to permit the owner or occupier of the land to use the land for the purpose for which such land was put to use immediately before the date of the notification under Section 3(1) of the Act. In other words, in the absence of any provision for acquisition of the trees, the authority given under Section 4 of the Act to cut down and clear away any part of any standing crop, fence or jungle, is arbitrary, unreasonable, discriminatory and violative of Articles 14, 19(1)(g), second proviso to 31A and 300A of the Constitution of India;

(III) while Section 9(1) of the Act permits the owner or occupier of the land in question to use the land for the purpose for which the said land was put to use immediately before the date of notification for acquisition under Section 3(1) of the Act, the restriction imposed on the owner or occupier of the land under proviso to Section 9(1) of the Act, namely that the owner or occupier shall not (i) construct any building or any other structure; (ii) construct or excavate any link, well, reservoir or dam; or (iii) plant any tree, is arbitrary, discriminatory and violative of Articles 14 and 19(1)(g) of the Constitution of India;

(IV) Even though Section 10 of the Act provides for awarding compensation, there is no specific provision thereunder for providing compensation for the trees that are cut down or removed while acquiring the right of user in the land by invoking the powers conferred under Sections 3(1) and 4 of the Act, referred to above. In the absence of any such specific provision for providing compensation for the trees, the very legislation, more particularly Section 10 of the Act is violative to the second proviso to Article 31A read with Article 300A of the Constitution of India; and

(V) in view of the acquisition of the right of user in land under the provisions of the Act, the owner or occupier is entitled for compensation determined by the competent authority as provided under Section 10 of the Act and that too within a reasonable time. While the scheme of the Act specifically provides time of limitation for all other purposes, no such

reasonable time is prescribed under Section 10 of the Act, and therefore, the Act is liable to held arbitrary, unreasonable and violative of Article 14 of the Constitution of India.

2.2. Apart from the above contentions challenging the constitutional validity of the Act, it is also argued by the learned counsel for the petitioners that:

(i) the acquisition proceedings initiated by the respondents under the provisions of the Act are illegal, arbitrary and violative of the principles of natural justice as the respondents have not conducted any further enquiry after receipt of the objections from the petitioners, even though the same is provided under Section 5(2) of the Act;

(ii) the impugned acquisition proceedings acquiring the right of user in the land is arbitrary and unreasonable as the same is circuitous, and the respondents failed to take note that if the pipelines are installed through Survey No.394 in Koppur Village, a forest area, it could have caused a lesser expense;

(iii) in view of the impugned acquisition of the right of the user in land, the properties of the petitioners, namely mango orchard was divided into two halves and the petitioners are therefore, prevented from raising further

plantation in the area in question, apart from incurring unnecessary expenses for double fencing; and

(iv) the impugned acquisition proceedings initiated by the respondents is mala fide as the same is intended to favour the third respondent in W.P.Nos.583, 843 to 845, 1191, 3344, 1032, 1033, 958 and 959/2001, and 41887/2002, who is closely related to an I.A.S. Officer and therefore, the same is liable to be struck down.

3.1. Mr.V.T.Gopalan, learned Additional Solicitor General inviting my attention to the object, intention, as well as the scheme of the Act, submits that:

(i) the Act is not intended to acquire any land, much less any trees thereon, inasmuch as, what was sought to be acquired under the provisions of the Act is only the right of the user of the land, but not the land or the trees thereon;

(ii) once such an intention is declared under a notification issued under section 3(1) of the Act, the competent authority is empowered to enter upon, survey and take levels of any land specified in the notification and to proceed further, as provided under Section 4 of the Act;

(iii) on receipt of the objection in writing to the notification declaring the acquisition of right of user in the land, the competent authority shall provide an opportunity of being heard as provided under Section 5(2) of the Act; and thereafter, the authority shall pass an order either allowing or disallowing the objections and therefore, holding a further enquiry, is purely a discretion conferred on the competent authority;

(iv) as per Section 6 of the Act, immediately on publication of the declaration of the acquisition of the right of user in the land, such right of the user in the land shall vest absolutely with the Government;

(v) the power conferred under Section 8 of the Act to reenter into the land for inspection, and the restriction imposed on the owner or occupier of the land regarding the use of the land under Section 9 of the Act, are intended only for proper maintenance, examination, repair, alteration or removal of pipelines, which is necessary for proper and effective utilisation of the pipelines; and

(vi) Section 10 of the Act not only provides for compensation for the right of user in the land, but also provides for damages, loss and injury, which includes the removal of trees as evident from Section 10 (3) of the Act. That apart, it was pointed out that an additional compensation is provided under Section 10(4) of the Act to the owner or any other person whose right of enjoyment in that land has been affected, calculating the same at the rate of 10% of the market value of that land and therefore, the loss incurred due to the restrictions imposed under Section 9 of the Act, viz., the owner or occupier of the land shall not plant any trees, which according to the petitioner offends the right of the owner of the land in using the same for the purpose of which the land was put to use immediately before the

acquisition proceedings, is duly taken care of, and hence, the contention of the petitioners that the provisions of the Act ultra vires the second proviso to Article 31-A and 300A of the Constitution of India is untenable in law.

3.2. Mr.V.T.Gopalan, the learned Additional Solicitor General

contends that the absence of any provision fixing the time limit for passing the order of compensation shall not be a ground to test the validity of the Act, as any unreasonable delay in passing an order for compensation for the acquisition of the right of user in the land may be a good and sufficient reason either to seek a writ of Mandamus directing the respondents to pay the compensation or to challenge such arbitrary and unreasonable delay in passing the order for compensation.

3.3. Apropos the allegation made on behalf of the individual owners challenging the impugned acquisition proceedings for want of provision prescribing the time limit for passing an order of compensation under Section 10 of the Act, Mr.V.T.Gopalan, learned Additional Solicitor General, contends that the same is purely imaginary, as the delay in passing the order of compensation does not arise in the instant case, and assuming there is any delay, the petitioners are responsible for the same.

3.4. Argued that there is only one notification intending to acquire the right of user in the land and no other proposal as complained by the petitioners; and that, as Survey No.394 in Koppur Village, falls within the forest area, the Government is bound to avoid such acquisition, as far as possible. In any event, it is for the State to choose the land for the purpose of laying pipelines for transporting petroleum products without affecting the forest area and therefore, there is no arbitrary or unreasonable exercise of power in this regard.

4. I have given careful consideration to the centrifugal and centripetal contentions made on behalf of both sides.

5. The issues that arise for my consideration are:

(i) whether the Petroleum and Minerals Pipelines (Acquisition of right of User in land) Act, 1962 is ultra vires the second proviso to Article 31A read with Article 300A of the Constitution of India? and

(ii) whether the impugned acquisition of right of the user in the land is illegal, arbitrary, violative of Articles 14 and 19(1)(g) of the Constitution of India, and contrary to the principles of natural justice?

6.1. Issue No.(i): Whether the Petroleum and Minerals Pipelines (Acquisition of right of User in land) Act, 1962 is ultra vires the second proviso to Article 31A read with Article 300A of the Constitution of India?

6.2.1. For the purpose of clarity, it is apt to refer to the objects and reasons, as well as the scheme of the Act.

6.2.2. The Act is intended to provide for acquisition of rights of the users in land for laying pipelines for transporting petroleum and minerals.

6.2.3. Anticipating that there would be substantial increase in the

production of crude oil, natural gas and petroleum products by the public sector oil-fields and refineries in India, the Government had felt it necessary to lay petroleum pipelines to serve as an efficient and cheap means of transportation and distribution of petroleum and petroleum products.

6.2.4. The legislature, although was aware that the lands could be acquired outright for laying pipelines for transporting petroleum and minerals under the provisions of the Land Acquisition Act, 1894, was of the considered opinion that the procedure for such acquisition is long-drawn and costly, and

when petroleum pipelines could be laid underground, outright acquisition of the land is not necessary. Hence, the legislature intended to acquire the mere right of user in the land for laying and maintaining the pipelines.

6.2.5. As per the statement of objects and reasons, the main features of the Act are:

- (i) No right of user of land can be acquired for the purpose of laying pipelines unless the Central Government declares its intention by notification in the Official Gazette, and unless objections, if any, filed within twenty-one days of that notification are disposed of by the competent authority.
- (ii) When final declaration about acquisition is made the right to use land for the purpose of laying pipelines would vest in the Central Government, State Government, or the corporation, as the case may be but notwithstanding such acquisition, the owner or occupier of the land shall be entitled to use the land for the purpose for which such land was put to use immediately before the declaration by the Central Government. But after the date of acquisition he shall not construct any building or any other structure or construct or excavate any tank, well, reservoir or dam or plant any tree, on that land.
- (iii) Compensation for the damage, loss or injury sustained by any person interested in the land shall be payable to such person. Besides this, compensation calculated at ten per cent of the market value of the land on the date of the preliminary notification is also payable to the owner and to any other person whose right of enjoyment in the land has been affected by reason of the acquisition. The compensation in both cases is to be determined by the competent authority in the first instance and an appeal lies from its decision to the District Judge.

6.2.6. In the public interest, the Government, therefore, felt it necessary to lay pipelines under such land for transporting petroleum and minerals from one locality to another by way of acquisition of rights of user in the land.

6.2.7. Having acquired such right of user in the land, the Act also provides for punishment for the construction or excavation of any building or other structure, tank, well, reservoir or dam or for planting any tree on any land.

6.2.8. Under the scheme of the Act, Section 3(1) of the Act provides

to notify the intention of the Government to acquire the right of user in the land, in the public interest, for the transport of petroleum from one locality to another locality by way of pipelines.

6.2.9. On such notification made under Section 3(1) of the Act, the Government, which proposes to lay pipelines for transporting petroleum and minerals is empowered:

- (a) to enter upon and survey and take levels of any land specified in the notification;
 - (b) to dig or bore into the sub-soil;
 - (c) to set out the intended line of work;
 - (d) to mark such levels, boundaries and line by placing marks and cutting trenches;
 - (e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and
 - (f) to do all other acts necessary to ascertain whether pipeline can be laid under the land,
- as provided under Section 4 of the Act.

6.2.10. Any person interested in the land may within twenty-one days from the date of notification under Section 3(1) of the Act object to the laying of pipelines under the land. On receipt of such objection in writing, the competent authority shall give an opportunity of being heard to the objector either in person or by a legal practitioner. After hearing of such objections, the competent authority shall pass an order either allowing or disallowing the objections, as provided under Section 5 of the Act, which reads as follows:

"Section:5 - Hearing of objections:

- (1) Any person interested in the land may, within twenty-one days from the date of notification under sub-section (1) of Section 3, object to the laying of the pipelines under the land.
- (2) Every objection under sub-section (1) shall be made to the competent authority in writing and shall set out the grounds thereof and the competent authority shall give the objector an opportunity of being heard either in person or by a legal practitioner and may, after hearing all such objections and after making such further inquiry, if any, as that authority thinks necessary, by order either allow or disallow the objections.
- (3) Any order made by the competent authority under sub-section (2) shall be final."

(emphasis supplied)

6.2.11. Following the order made under Section 5(2) of the Act, the competent authority shall pass a declaration under Section 6(1) of the Act declaring the acquisition of the right of user in the land. On the publication of the declaration under Section 6(1) of the Act, the right of user in the land specified therein shall vest absolutely with the Government, free from all encumbrances.

6.2.12. Section 7 of the Act provides certain guidelines for laying

pipelines, which includes certain restrictions such as, no pipeline shall be laid under:

- (a) any land which, immediately before the date of the notification under sub-section (1) of Section 3, was used for residential purposes;
- (b) any land on which there stands any permanent structure which was in existence immediately before the said date;
- (c) any land which is appurtenant to a dwelling house; or
- (d) any land at a depth which is less than one metre from the surface.

6.2.13. Section 8 of the Act empowers the authority to enter the land for inspection, etc., for maintaining, examining, repairing, altering or removing any pipeline, for the purpose of proper and effective utilisation of the pipelines, of course, after giving a reasonable notice to the occupier of the land.

6.2.14. Even though the owner or occupier of the land with respect to which declaration was made under Section 6(1) of the Act is entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under Section 3(1) of the Act, as provided under Section 9 of the Act, such owner or occupier shall not:

- (i) construct any building or any other structure;
- (ii) construct or excavate any link, well, reservoir or dam; or
- (iii) plant any tree.

This again is presumably intended for proper and effective maintenance and utilisation of the pipelines.

6.2.15. Section 10(1) of the Act provides for award of compensation not only for the acquisition of the right of user in the land, but also to pay compensation to such person for such damage, loss or injury. If the amount so determined under Section 10(1) of the Act is not acceptable by either of the parties, they are at liberty to approach the District Judge under Section 10(2) of the Act. As per Section 10 (3) of the Act, the competent authority and the District Judge, while determining the compensation under Section 10(1) and 10(2) of the Act shall have due regard to the damage and loss by reason of:

- (i) the removal of trees or standing crops, if any, on the land while exercising the powers under Section 4, Section 7 or Section 8;
- (ii) the temporary severance of the land under which the pipeline has been

laid from other lands belonging to, or in the occupation of, such person; or
(iii) any injury to any other property, whether movable or immovable, or the earnings of such persons caused in any other manner.

6.2.16. That apart, Section 10(4) of the Act further provides for additional compensation to the owner or any other person whose right of enjoyment in that land has been affected, which shall be calculated at the rate of 10 per cent of the market value of that land on the date of notification under Section 3(1) of the Act.

6.3. A wholesome reading of the provisions of the Act, in the light

of the objects and reasons of the enactment and the legislative intention, makes it clear that in spite of a general law, namely the Land Acquisition Act, 1894, the Parliament thought it fit to enact a special law for acquisition of the right of user in the land, to avoid undue delay in such acquisition, particularly when the total acquisition of land is not required except the acquisition of right of user in the land, which is only a fraction of the right of the user in the land and therefore, the Act is undoubtedly a special enactment.

6.4. It is never the intent of the authority to acquire any tree that is raised in the lands, but once a notification is issued under Section 3(1) of the Act declaring the intention of the Government to acquire the right of user in the land, by virtue of the powers conferred under Section 4 of the Act, the authority is entitled to cut down and clear away any part of any standing crop, fence or jungle. By that means, immediately after the issue of notification under Section 3(1) of the Act, referred to above, and even before holding an enquiry under Section 5(1) of the Act or passing a declaration under Section 6(1) of the Act, the Act empowers the authorities to cut trees and standing crops, in order to achieve the object of the enactment, namely for laying pipelines for transporting petroleum and minerals from one locality to another, in the public interest.

6.5. That apart, the opportunity of being heard provided under Section 5(2) of the Act to the objectors of the notification under Section 3(1) of the Act, namely the owner or occupier of the lands, is only a summary proceeding, which does not require any full-fledged enquiry, as in the case of the land acquisition proceedings under Section 5 A of the Land Acquisition Act, 1894, because immediately after the notification under Section 3(1) of the Act, the authorities are empowered:

- (a) to enter upon and survey and take levels of any land specified in the notification;
- (b) to dig or bore into the sub-soil;
- (c) to set out the intended line of work;
- (d) to mark such levels, boundaries and line by placing marks and cutting trenches;
- (e) where otherwise survey cannot be completed and levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle; and
- (f) to do all other acts necessary to ascertain whether pipeline can be laid under the land,

6.6. It is, therefore, clear that the authorities are empowered to even take possession of the land prior to the hearing of objections under Section 5(1) of the Act and the declaration under Section 6(1) of the Act. Hence, further enquiry, if any, after giving an opportunity of being heard to the objector, as provided under Section 5(2) of the Act is purely a discretion conferred on the authorities concerned and accordingly, no such second hearing is required as contended on behalf of the petitioners placing reliance on Section 5(2) of the Act.

6.7. Section 6(2) of the Act makes it clear that immediately on

publication of declaration under Section 6(1) of the Act, the right of user in the land shall vest absolutely with the Government, which is unlike in the

land acquisition proceedings under the Land Acquisition Act, 1894, where taking over possession and vesting of right, except in cases of emergency, only follows after passing of the award.

6.8. Besides, the restrictions imposed on the authorities under Section 7 of the Act in laying the pipelines indicate that the authorities should exercise the power of laying pipelines, even after acquisition of right of user in the land, only reasonably and not arbitrarily. On the other hand, once such acquisition of right of user in the land is declared under Section 6 of the Act and pipelines are laid, the authorities are empowered to maintain, examine, repair, alter or remove any pipeline, for the purpose of proper and effective utilisation of the pipelines, and in order to achieve such object, Section 9(2) of the Act further imposes certain restrictions that the owner and the occupier shall not after declaration

- (i) construct any building or any other structure;
- (ii) construct or excavate any link, well, reservoir or dam; or
- (iii) plant any tree.

These restrictions are imposed only for proper and effective maintenance of the pipelines and to avoid damage of the same.

6.9. Even though, by and large, the owner or occupier are entitled to use the land for the purpose for which such land was put to use immediately before the date of the notification under Section 3(1) of the Act, the restriction to (i) construct any building or any other structure; (ii) construct or excavate any link, well, reservoir or dam; or (iii) plant any tree, in my considered opinion, is reasonable restriction and the classification that the owners of the lands should not plant trees, in my considered opinion, would not offend either Article 14 or Article 19(1)(g) of the Constitution of India.

6.10. Even though the Government is not entitled to acquire the trees, incidentally, the authorities are empowered to cut down trees and clear away any standing crop, fence or jungle; and if any damage, loss or injury is caused thereunder, Section 10 of the Act specifically provides compensation for the same. That apart, compensation for the removal of the trees or standing crops, is provided under Section 10 (3) of the Act; and if there is any alleged damage, loss or injury of future proceeds or usufruct of the land, the same is also protected under Section 10(4) of the Act by an award of additional compensation.

6.11. An effective argument was made that the impugned legislation is ultra vires the second proviso of Article 31A read with Article 300A of the Constitution of India. In this regard, it is apt to refer the second proviso to Article 31A and Article 300A of the Constitution of India.

Article 31A: - Saving of laws providing for acquisition of estates, etc:

(1) Notwithstanding anything contained in Article 13, no law providing for:

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or
(b) the taking over of the management of any property by the State for a limited period either in the public interest or in order to secure the proper management of the property, or
(c) the amalgamation of two or more corporations either in the public interest or in order to secure the proper management of any of the corporations, or
(d) the extinguishment or modification of any rights of managing agents, secretaries and treasurers, managing directors, directors or managers of corporations, or of any voting rights of shareholders thereof, or
(e) the extinguishment or modification of any rights accruing by virtue of any agreement, lease or licence for the purpose of searching for, or winning, any mineral or mineral oil, or the premature termination or cancellation of any such agreement, lease or licence,
shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 or Article 19;

Provided that where such law is a law made by the Legislature of a State, the provisions of this article shall not apply thereto unless such law, having been reserved for the consideration of the President, has received his assent;

Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto, unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate which shall not be less than the market value thereof.

(2) In this article-

(a) the expression 'estate' shall, in relation to any local area, have the same meaning as that expression or its equivalent has in the existing law relating to land tenures in force in that area and shall also include-

(i) any jagir, inam or muafi or other similar grant and in the States of Tamil Nadu and Kerala, any janmam right;

(ii) any land held under ryotwary settlement;

(iii) any land held or let for purposes ancillary thereto, including waste land, forest land, land for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans;

(b) the expression "rights", in relation to an estate, shall include any rights vesting in a proprietor, sub-proprietor, under-proprietor, tenure-holder, raiyat, under-raiyat or other intermediary and any rights or privileges in respect of land revenue."

(emphasis supplied)

"Article 300A - Persons not to be deprived of property save by authority of

law:

No person shall be deprived of his property save by authority of law."

6.12. Of course, the word 'property' used in Article 300-A must be understood in the context in which the sovereign power of eminent domain is exercised by the State and property expropriated. No abstract principles could be laid. Each case must be considered in the light of its own facts and setting. The phrase "deprivation of the property of a person" must equally be considered in the fact situation of a case. Deprivation connotes different concepts. Article 300-A gets attracted to an acquisition or taking possession of private property, by necessary implication for public purpose, in accordance with the law made by Parliament or a State Legislature, a rule or a statutory order having force of law. It is inherent in every sovereign State by exercising its power of eminent domain to expropriate private property without owner's consent. Prima facie, State would be the judge to decide whether a purpose is a public purpose. But it is not the sole judge. This will be subject to judicial review and it is the duty of the court to determine whether a particular purpose is a public purpose or not. Public interest has always been considered to be an essential ingredient of public purpose. But every public purpose does not fall under Article 300-A nor every exercise of eminent domain an acquisition or taking possession under Article 300-A. Generally speaking preservation of public health or prevention of damage to life and property are considered to be public purposes. Yet deprivation of property for any such purpose would not amount to acquisition or possession taken under Article 300-A. In other words, Article 300-A only limits the powers of the State that no person shall be deprived of his property save by authority of law. There has to be no deprivation without any sanction of law. Deprivation by any other mode is not acquisition or taking possession under Article 300-A. If there is no law, there is no deprivation, vide *Jilubhai Nanbhai Khachar v. State of Gujarat*, (1 995) Supp (1) SCC 596.

6.13. In the instant case, I do not see any violation to second proviso of Article 31A read with Article 300A of the Constitution of India, as the legislature has taken care of the above fundamental rights by providing compensation under Sections 10(1) to 10(4) of the Act. The contention of the petitioners that the impugned legislation is ultra vires second proviso to Article 31A read with Article 300A of the Constitution of India, therefore, does not hold good.

6.14. Even though neither Section 10 of the Act nor the Rules framed under Section 17 of the Act prescribe any time limitation for passing the order of compensation, that, by itself, may not be a ground to invalidate the Act as it is a settled principle of interpretation that the Act is presumed to be valid in law and the authorities are empowered to discharge the statutory obligation thereunder within a reasonable time, even though no provision is made for discharging the statutory duties provided thereunder. If there is any undue and unreasonable delay in determining the compensation while exercising the powers conferred under Section 10 of the Act, as rightly

pointed by the learned Additional Solicitor General, the party aggrieved by such delay is at liberty to approach this Court seeking a writ of Mandamus to pay the compensation; or to challenge such arbitrary and unreasonable delay in passing the order for compensation; or to challenge the acquisition proceedings if they are so advised, but the mere non prescription of time limit for determining the compensation under Section 10 of the Act shall not be a ground to invalidate the Act, inasmuch as the Courts are not concerned with the actual implementation of the schemes envisaged by the Act. In the instant case, since the competency of the legislature in enacting the impugned Act is not at all questioned and this Court having satisfied that none of the provisions of the enactment fetter any of the provisions of the Constitution of India, much less any other law in force, can hardly strike it down when the same is enacted in the larger public interest.

6.15. That apart, if either of the parties are aggrieved by the determination of the compensation, either for the acquisition of the right of user in the land or for damage, loss or injury under Section 10(3) of the Act or as to the additional compensation provided under Section 10(4) of the Act, they are entitled to prefer an appeal before the District Judge under Sections 10(2) and 10(5) of the Act. In any event, the inadequacy of compensation determined under Section 10 of the Act cannot be a ground to challenge the scheme of the Act, as such ground, in my considered opinion, is nothing but illusory and surmise.

6.16. I am, therefore, of the considered opinion that none of the provisions of the Act could be declared arbitrary or unreasonable or violative of Articles 14, 19(1)(g), or ultra vires to second proviso to Article 31A read with Article 300A of the Constitution of India.

6.17. Issue No.(i) is answered in negative.

7.1. Issue No:(ii) - Whether the impugned acquisition of right of the user in the land is illegal, arbitrary, violative of Articles 14 and 19(1)(g) of the Constitution of India, and contrary to the principles of natural justice?

7.2. I have already held that the absence of period of limitation for passing the order of compensation is no ground to invalidate the Act, as the Act has to be construed to be valid in law and the authorities are empowered to discharge the statutory obligation thereunder within a reasonable time. In any event, such a contention is liable to be rejected as the same is made on hypothetical grounds. Assuming the petitioners suffer by any such unreasonable delay in passing the order of compensation, they are entitled to approach this Court seeking a writ of Mandamus to challenge such arbitrary and unreasonable delay in passing of order for compensation.

7.3. It is well settled in law that the State being the eminent domain is the best judge to decide the land required for laying the pipelines

and it is improper for this Court to interfere with such decision unless there is any illegality or irregularity in the decision making process, contrary to the provisions of the Act. Even though it was contended on behalf of the petitioners that the impugned route is circuitous, I do not find any arbitrariness or unreasonableness in preferring the lands of the petitioners, as the alternative proposal which lie in Survey No.394 in Koppur Village falls within the forest area and the acquisition of the same shall be avoided as far as possible, in order to avoid deforestation.

7.4. The contention of the petitioners that they are constrained to lay double fencing as the impugned pipelines run through their mango orchard, cannot be a valid objection when compared to the public purpose sought to be achieved, namely laying pipelines to serve as an efficient and cheap means of transportation and distribution of petroleum and petroleum products.

7.5. Similarly, the contention that the impugned acquisition proceedings is malafide, as the same is intended to favour the third respondent in W.P.Nos.583, 843 to 845, 1191, 3344, 1032, 1033, 958 and 959/2001, and 41887/2002, who is closely related to an I.A.S. Officer, is also liable to be rejected, because it is a settled law that the authorities are the best judges to decide the land required for the public purpose.

7.6. Issue No.(ii) is also answered in negative.

8. The conclusion that emerges from the foregoing discussion is that these petitions are devoid of merits and have only to be dismissed. Accordingly, these petitions are dismissed. No costs. Consequently, connected W.M.Ps and W.V.M.Ps. are closed.

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To:

1. The Union of India
rep. by its Secretary to Government
Ministry of Petroleum and
Natural Gas, Shastri Bhavan
New Delhi.

2. The Competent Authority
Petronet CTM Ltd.,
Chennai-Trichy-Madurai
Product Pipeline Project
4/2, Crawford Colony
Tiruchirapalli-620 012.

3. The Tahsildar
Uthukottai Taluk
Uthukottai
Tiruvalluvar District.

